

## REMARKS

Consideration of this application in light of the present amendment is respectfully requested.

Claims 1-5, 7-9, 11-20 and 24 have been rejected.

Claims 6, 10 and 21-23 were previously canceled.

Claims 11 and 16 have been canceled, without prejudice.

Claims 1 and 24 have been amended.

Claims 1-5, 7-9, 12-15, 17-20 and 24 are pending in this application.

Claims 1-5, 7-8, 11, 16, 20 and 24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schiff (US 6,298,242) in view of Wiedeman et al. (US 6,272,325, hereinafter "Wiedeman"). This rejection is respectfully traversed.

Independent claims 1 and 24 have been amended to incorporate the recitations of claim 11 to recite that the operating condition of the present invention is predicated on the condition of a transmit power level exceeding a threshold, such as a saturated, maximum power level. In particular, if a desired quality level of a communication can not be achieved, even at a maximum transmit power level, then the invention proceeds to call for a reduced power level and data rate. Further, support for this can be found in the text on page 17 line 17 to page 18 line 9. Applicant respectfully disagrees that Schiff (col. 10 lines 44-52) suggests or discloses the power threshold limitations from claim 11. This cite only mentions a quality threshold, and nothing about a power limit.

Claims 1 and 24 have also been amended to incorporate the recitations of claim 16 to clarify that the reduced power/data rate mode is exited when radio propagation conditions have improved. Further support for this can be found in the text on page 18 lines 15-17, page 19 lines 1-6, and page 20 line 26 to page 21 lines 2 and 18-20, for example. Applicant respectfully disagrees that Wiedeman (col. 15 lines 35-43) suggests or discloses exited a reduced power mode upon improving quality conditions from claim 16. This cite only mentions a reduced power mode, and nothing about how to exit therefrom.

The subsequent combination of recitations in amended claims 1 and 24 are not disclosed or suggested in any of the cited references.

Advantageously, applicant's invention of claim 1 provides a solution for reducing interference caused by a communication unit operating with poor quality even at maximum transmit power. In practice, if a communication unit is operating with poor quality a base station will continue to send commands for increased power levels, without regard to whether the

communication unit can achieve such power levels, and probably drive the transmitter into saturation causing further interference. Applicant's invention solves this problem by actually reducing the transmit power and data rate of such a communication unit to reduce system interference dependent upon that quality level being unachievable at a particular power threshold. In addition, the present invention still allows for communications to be exchanged until the interference issue is resolved.

Schiff describes a method for power control for a transmitter that includes controlling power levels in response to quality levels (col. 10 lines 44-65). However, Schiff does not mention or even recognize an issue with the transmitter reaching a particular power threshold. Schiff instead operates under the condition that a required transmitter power level is never over or under range to achieve a desired quality level. Since Schiff is missing the element of, a) transmit power threshold, Schiff could not have further envisioned the element of, b) determining that a quality level can not be achieved at particular power threshold. Then Schiff could not have further envisioned the element of, c) entering a reduced power mode in response to a quality level being unachievable even at a power threshold, as recited in the amended claims.

The Examiner has admitted that Schiff is missing the elements of d) operating at reduced power level and data rate, and e) exiting reduced power mode by communicating power up data. However, the Examiner proceeds to cite Wiedeman as reciting these two elements.

Wiedeman does disclose operating in at a reduced power level and data rate, and using power control information to control power levels. However, in addition to missing the previous three elements (a-c), Wiedeman is still missing the amended element of e) exiting the reduced power mode when quality conditions have improved. Col. 15 line 60 to col. 16 line 9 merely recites the assigning of new channels using a history of interference. Not only does Wiedeman fail to consider an existing channel communication and exiting a reduced power mode therefrom, Wiedeman also fails to consider future, improving quality conditions, and instead only considers past historic channel conditions. Therefore, Wiedeman could not have considered exiting a reduced power mode when quality conditions are improving, and actually teaches away therefrom.

As a result, applicant respectfully submits that neither Schiff nor Wiedeman, in combination or alone, suggest or disclose at least the elements of: a) a transmit power threshold, b) determining that a quality level can not be achieved at the power threshold, c) entering a reduced power mode in response to a quality level being unachievable even at the power threshold, and e) exiting the reduced power mode when quality conditions improve, as recited in the amended claims.

Accordingly, due to these many missing elements, applicant respectfully submits that amended claims 1 and 24 are now allowable.

Moreover, dependent claims 2-5, 7-8 and 20 are dependent on amended claim 1, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons.

Claims 11 and 16 have been canceled.

Therefore, applicant respectfully requests that this rejection be withdrawn.

Claims 9, 12-15 and 17-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schiff in view of Wiedeman and further in view of Damnjanovic et al (US 2003/0050084, hereinafter Damnjanovic). This rejection is respectfully traversed.

Schiff and Wiedeman have been distinguished over previously. Applicant's distinguishing remarks providing the benefits of applicant's invention and disadvantages of Schiff and Wiedeman, to the extent applicable, are hereby incorporated by reference.

Regarding claim 9, applicant respectfully disagrees that Damnjanovic teaches a duration of a reduced power mode is less than a data re-transmission interval associated with the communication between the communication unit and the base station, in that the cite on page 8 [para. 0084] only describes the reception of power level commands within a discontinuous mode, but nowhere describes a data re-transmission interval, and therefore could not have envisioned a reduced power mode less than a data re-transmission interval. In addition, even if one could describe a discontinuous mode as a reduced power mode (which it is not), this reference describes power control commands received within the discontinuous mode, which means that the duration of the discontinuous mode is *larger* than the power control transmissions. Therefore, Damnjanovic teaches away from a duration of a reduced power mode being *less* than a data re-transmission interval, even if Damnjanovic taught a reduced power mode or a data re-transmission interval, which it does not.

Regarding claim 15, applicant respectfully disagrees that Damnjanovic teaches determining that a duration of the reduced power mode exceeds a threshold and in response exiting the reduced power mode, in that the cite on page 13 [para. 0113] only describes comparing a signal strength (power level) to a threshold, but nowhere considers a *duration* of a reduced power mode, and therefore could not have envisioned comparing a *duration* of a reduced power mode to a threshold. Inasmuch as a duration threshold is not considered, Damnjanovic could not have further envisioned exiting a reduced power mode if the duration is exceeded.

Moreover, claims 9, 12-15 and 17-19 are dependent on previously distinguished amended claim 1, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons.

Accordingly, it is respectfully submitted that this rejection has been overcome.

The other references of record have been reviewed and applicant's invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicant respectfully requests that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicant's claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection or through an Examiner's amendment.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

Respectfully submitted,  
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